

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF:

WHITSON, Debi

Serial No.: 09/802,546

Filed: March 9, 2001

PROCESS OF INTERFACING A  
PATIENT INDIRECTLY WITH THEIR  
OWN ELECTRONIC MEDICAL  
RECORDS

Group Art Unit No.: 3626

Docket No. 36357

Examiner: PORTER, Rachel L.

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION UNDER 37 C.F.R. § 1.132**

1. I, Rhetah Kwan, of 3535 SW Multnomah Blvd., number 146, Portland, Oregon, am making this declaration in support of the above-referenced patent application (the "Application"). I am not an inventor of the invention described in the Application, and I do not have any ownership interest in the Application. Furthermore, I have never been employed by Debi Whitson or otherwise entered into a business relationship of any kind with Ms. Whitson.

2. From 1990 until 2002 I was employed by MedicaLogic, Inc., a company specializing in the development, deployment, and support of software and hardware used by doctors' offices and other caregivers to manage electronic medical records of the type recited in the Application. While employed at MedicaLogic, my responsibilities included assisting customers with installing and implementing the electronic medical record software and hardware, as well as providing training and consulting services. I learned the details

of the software from the engineers who developed it, and presented that knowledge to our customers. By the time I left MedicaLogic in 2002, the company had grown to a nationally-recognized provider of electronic medical record software. Since my departure from MedicaLogic in 2002, I have not been directly involved in the electronic medical record software industry.

3. As an individual with many years of experience in the electronic medical record industry, I have been asked to provide this declaration to attest to the state of the art prior to and following the filing date of the Application.

4. Independent claim 1 of the Application is directed towards a process of allowing a patient to have limited input access to their electronic medical record. The method comprises providing the patient with a machine readable card including a questionnaire concerning the patient's medical history, environment, symptoms, or other pertinent information for answering by the patient, and interfacing the card with a scanning type machine to convert the patient's written answers to a data stream. The data stream is then arranged into a defined data structure simulating the protocol structure from a party having authorization to export data to the patient's patient-specific electronic medical record, and the formatted data is sent to an assigned location for importing into the patient's patient-specific electronic medical record, wherein the patient's electronic medical record contains patient-specific, clinical information regarding the patient's health.

5. At the time the Application was filed on March 9, 2001, I was not aware that information recorded by a patient on a machine-readable card could be scanned by a machine and arranged into a data structure simulating the protocol structure from a party

having authorization to export data to the patient's patient-specific electronic medical record. Furthermore, I was unaware that a patient's medical history, environment, or symptoms could be formatted in the form of a Health Level Seven laboratory record, or imported into the patient's electronic medical record by way of an interface engine.

6. At the time the Application was filed, laws such as the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulated caregivers' use of electronic medical records to ensure patients' privacy. These laws required caregivers to prevent unauthorized individuals, including individuals outside their organization, from having access to the electronic medical records. As a result, even when implementing an electronic medical record software system on-site, I was not allowed to view any electronic medical records relating to actual patients.

7. Manual submission of patient information to the patient's electronic medical record by an employee of the caregiver presented an obstacle that caused some offices to abandon the use of electronic medical records. For example, the person manually submitting the information often could not submit the information quickly enough for use by the attending physician during the physician's visit with the patient, requiring the physician to wait for the information to become available via the electronic medical record system. Furthermore, manual submission of the information was susceptible to human error, and cost the caregiver the labor involved.

8. I recognized a need, at least as early as 1990, for a more efficient manner of adding information received from a patient to the patient's electronic medical record. I addressed the problem by educating system users of the demands of manual submission.

The laws regulating the use of electronic medical records described above limit the manner in which this need may be addressed because only authorized individuals can be given full access to the electronic medical record databases.

9. At the time the Application was filed, I was not aware of a method for submitting information from a patient to the patient's electronic medical record other than manual submission, described above. To my knowledge, the problems relating to the manual submission of patient application persist today. Furthermore, to my knowledge the invention disclosed in the Application is to date the only method of automatically placing information received from a patient-filled scan card in the proper form to be imported into the patient's electronic medical record or automatically imported into the patient's electronic medical record. I am not aware of any products that perform all of the functions recited in claim 1 of the Application.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Rhetah Kwan  
Rhetah Kwan

10/30/07  
Date